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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT TACOMA

9 CLARENCE BRUCE JOHNSON,

10 Plaintiff,

11 v.

12 CAROLYN W COLVIN, Acting
13 Commissioner of the Social Security
14 Administration,

15 Defendant.

16 CASE NO. 13-cv-05742 JRC

17 ORDER GRANTING MOTION FOR
18 ATTORNEY'S FEES PURSUANT
19 TO 42 U.S.C. § 406(b)

20 This Court has jurisdiction pursuant to 28 U.S.C. § 636(c), Fed. R. Civ. P. 73 and Local
21 Magistrate Judge Rule MJR 13 (*see also* Notice of Initial Assignment to a U.S. Magistrate Judge
22 and Consent Form, Dkt. 5; Consent to Proceed Before a United States Magistrate Judge, Dkt. 6).
23 This matter is before the Court on plaintiff's Motion for Attorney's Fees Pursuant to 42 U.S.C. §
24 406(b) (*see* Dkt. 23). Defendant has no objection to plaintiff's request (*see* Dkt. 24).

25 The Court may allow a reasonable fee for an attorney who represented a Social Security
26 Title II claimant before the Court and obtained a favorable judgment, as long as such fee is not in
27 excess of 25 percent of the total of past-due benefits. *See* 42 U.S.C. § 406(b)(1); *Grisbrecht v.*
28 *Barnhart*, 535 U.S. 789 (2002). When a contingency agreement applies, the Court will look first
29 to such agreement and will conduct an independent review to assure the reasonableness of the

30 ORDER GRANTING MOTION FOR
31 ATTORNEY'S FEES PURSUANT TO 42 U.S.C. §
32 406(B) - 1

1 fee requested, taking into consideration the character of the representation and results achieved.
2 See *Grisbrecht, supra*, 535 U.S. at 807, 808 (footnote omitted) (citations omitted). Although the
3 fee agreement is the primary means for determining the fee, the Court will adjust the fee
4 downward if substandard representation was provided, if the attorney caused excessive delay, or
5 if a windfall would result from the requested fee. See *Crawford v. Astrue*, 586 F.3d 1142, 1151
6 (9th Cir. 2009) (citing *Grisbrecht, supra*, 535 U.S. at 808).

7 Here, the representation was standard, at least, and the results achieved excellent (see
8 Dkt. 23, Attachments 4, 5). See *Grisbrecht, supra*, 535 U.S. at 808. Following a remand from
9 this Court (see Dkt. 18), a hearing was held and the Administration Law Judge issued a partially
10 favorable decision awarding benefits to plaintiff (see Dkt. 23, Attachment 5). There has not been
11 excessive delay and no windfall will result from the requested fee.

12 Plaintiff's total back payment was \$39,344.90 (see *id.*, Attachment 4). Plaintiff has
13 moved for an attorney's fee of \$3,836.22 (see Motion, Dkt. 23, p. 1), and the Court has
14 considered plaintiff's EAJA award previously received by plaintiff's attorney in the amount of
15 \$5,538 (see *id.* p. 2; see also Dkt. 23, Attachment 6). See *Parish v. Comm'r. Soc. Sec. Admin.*,
16 698 F.3d 1215, 1221 (9th Cir. 2012).

17 Based on plaintiff's motion and supporting documents (see Dkt. 23, Attachments 1, 2, 3,
18 4, 5, 6), and with no objection from defendant (Dkt. 24), it is hereby ORDERED that attorney's
19 fees in the amount of \$3,836.22 be awarded to plaintiff's attorney pursuant to 42 U.S.C. §
20 406(b).

21 Dated this 10th day of March, 2016.

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24 J. Richard Creatura
United States Magistrate Judge